

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERREK
CHAIRMAN 2002
CAROLYN S. ALLEN
KEN CHEUVRON
LINDA GRAY
LINDA LOPEZ
RUSSELL K. PEARCE
CHRISTINE WEASON

JOINT COMMITTEE ON CAPITAL REVIEW

Friday, February 09, 2001

8:00 a.m.

Senate Appropriations Room 109

AGENDA

- Call to Order
- Approval of Minutes of [December 19, 2000](#) and [January 9, 2001](#).
- DIRECTOR'S REPORT (if necessary)
- 1. [ADOPTION OF COMMITTEE RULES.](#)
- 2. [JOINT LEGISLATIVE BUDGET COMMITTEE - Consider Adoption of FY 2002 and FY 2003 Capital Outlay Recommendations.](#)
- 3. [ARIZONA DEPARTMENT OF ADMINISTRATION - Consider Approval of FY 2002 and FY 2003 Rental Rates for State-Owned Space.](#)
- 4. [ARIZONA DEPARTMENT OF VETERANS' SERVICES/ARIZONA DEPARTMENT OF ADMINISTRATION - Review of Scope, Purpose, and Estimated Cost of Veterans' Cemetery Project.](#)
- 5. [SCHOOL FACILITIES BOARD - Report on Attorney General Opinion on Building Renewal Requests to the Treasurer.](#)

The Chairman reserves the right to set the order of the agenda.

2/01/01

People with disabilities may request accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for accommodations must be made with 72 hours prior notice. If you require accommodations, please contact the JLBC Office at (602) 542-5491.

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RANDALL GNANT
CHAIRMAN 1999
GUS ARZBERGER
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
TOM SMITH
RUTH SOLOMON
JOHN WETTAW

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

BOB BURNS
CHAIRMAN 2000
DEAN COOLEY
LORI S. DANIELS
KAREN S. JOHNSON
BOB MCLENDON
ANDY NICHOLS
CHRISTINE WEASON

MINUTES OF THE MEETING JOINT COMMITTEE ON CAPITAL REVIEW

Tuesday, December 19, 2000

The Chairman called the meeting to order at 10:10 a.m. Tuesday, December 19, 2000 in House Hearing Room 4 and attendance was noted.

Members:	Representative Burns, Chairman Representative Cooley Representative Daniels Representative Johnson Representative McLendon Representative Nichols Representative Weason	Senator Gnant, Vice-Chairman Senator Arzberger Senator Bowers Senator Brown Senator Smith Senator Solomon Senator Wettaw
Staff:	Richard Stavneak Lorenzo Martinez Chris Earnest	Jan Belisle, Secretary Gina Guarascio Patrick Fearon
Others:	Debbie Johnston, Senate Kitty Decker, House Representative Knaperek Representative Flake Dave Harris, ABOR Dr. Jack Silver, ASH John Arnold, SFB	John Sempert, ADOA Bruce Ringwald, ADOA Tim Brand, ADOA Mernoy Harris on, ASU Steve Miller, ASU Christine Sato, OSPB

APPROVAL OF MINUTES

Representative Burns asked for corrections or additions to the minutes of November 28, 2000. The JLBC Staff noted that the fifth paragraph from the top on page 3 should read ". . .has been appropriated to build ~~2~~ **3** dormitories for the Sexually Violet Persons (SVP) Program to increase capacity to 300 beds". The last paragraph on page 3 should read ". . . Mr. Earnest stated approximately ~~\$12,700,000~~ **\$2,700,000** has been generated by the park over the 12 months it has been open".

Representative Cooley moved the minutes stand approved as amended. The motion carried.

EXECUTIVE SESSION - Review Bid Proposals for Arizona State Hospital Construction Project.

Senator Gnant moved that the Committee go into Executive Session. The motion carried.

At 10:12 a.m. the Joint Committee on Capital Review went into Executive Session.

Representative Daniels moved that the Committee reconvene into open session. The motion carried

(Continued)

At 10:55 a.m. the Committee reconvened into open session.

Representative Cooley moved that the Committee give a favorable review to the bid proposals for the Arizona State Hospital Construction Project and that the Arizona Department of Administration submit a report as to what components of the two unsuccessful bids will be incorporated into the final plan for the project. The report should also include the added value of these components. The motion carried.

SCHOOL FACILITIES BOARD - Report Attorney General's Opinion on School Facilities Board Building Renewal Fund.

As to date, a response from the Attorney General has not been received.

There was no discussion on this item and no Committee action was required.

Report on FY 2002 Instructions to the Treasurer.

Patrick Fearon, JLBC Staff presented the estimated amounts necessary in FY 2002 for the Deficiencies Correction Fund, Building Renewal Fund, and New School Facilities (SFB) Fund. The School Facilities Board (SFB) also reported the projected needs for these funds for FY 2003. Mr. Fearon referenced Table 1 showing the estimated General Fund Requirements for SFB Funds for FY 2002 and FY 2003. The FY 2003 amounts are subject to change, and would serve only as placeholders.

Representative Nichols asked if the purpose of the bonds is to enhance the facilities that are being built with the School Facilities Board. Can the quality of the buildings be upgraded.

In response, Senator Smith mentioned they are going to build facilities and also repair the present facilities which is part of the School Facilities Board. The buildings can be upgraded.

Representative Cooley mentioned in Mesa they had received bids for a new school for which the School Facilities Board does not provide gymnasiums and several other structures that are common to that type of a school. The bid came in very low and there was money left over to fund those other structures so there would be no additional costs.

No Committee action was required.

ARIZONA BOARD OF REGENTS/ARIZONA STATE UNIVERSITY - Consider Approval of Bond Projects.

Lorenzo Martinez, JLBC Staff presented the Board of Regents and Arizona State University (ASU) request for the Committee to approve two ASU bonding projects. ASU is requesting approval to issue \$35,500,000 in academic revenue bonds for a Mediated Classroom/Social Sciences Building. The JLBC Staff recommends the Committee approve an issuance of \$32,335,000 in academic revenue bonds for the Mediated Classroom/Social Sciences Building. The lesser amount is recommended because the request included approximately \$3,200,000 to purchase computers. It is recommended that computers be financed through shorter-term financing or as a request in the operating budget. ASU also requests approval to issue \$3,500,000 in auxiliary revenue bonds to partially finance a use fee for the right to use 700 parking spaces in perpetuity on the west side of the Main Campus. ASU has an agreement with a private developer to develop ASU-owned land near the campus. Part of the agreement would have the developer construct a parking structure. ASU would be allocated 700 spaces of the 1,150 space parking structure.

Representative Cooley asked if it was a one-time payment. Mr. Martinez stated that it is a one-time fee that ASU would pay the developer and ASU will own the garage although spaces will be allocated between the private developer and ASU. The developer and ASU will have a revenue sharing agreement for monies generated by the garage.

(Continued)

Representative Nichols asked if there was a limit on what universities can or do charge students and faculty to park. Mr. Mernoy Harrison, ASU, said there is no legal limit as to what universities can charge. The charge is based on the cost of the operation of the overall parking activities. At ASU, the charge today is \$129 per year for open structure parking. Fees depend on the cost of the parking structure, operation costs, and fees that may be generated from special events.

In response to Representative Cooley, Mr. Harrison stated there is no “free parking” at ASU. Depending on the location, non-structured parking is \$50 per space/per year, if you are closer it is \$85 per space/per year.

In answer to Representative Nichols, Mr. Harrison said that a reserved space is \$429/per year and reserved spaces are limited.

Senator Bowers moved the Joint Committee on Capital Review approve the issuance of \$32,335,000 in academic revenue bonds for a Mediated Classroom/Social Sciences Building and \$3,500,000 in auxiliary revenue bonds to partially finance a use fee for the right to use 700 parking spaces in perpetuity on the west side of the Main Campus. The motion carried.

Without objection, the meeting adjourned at 11:15 a.m.

Respectfully submitted:

Jan Belisle, Secretary

Lorenzo Martinez, Senior Fiscal Analyst

Representative Robert “Bob” Burns, Chairman

NOTE: A full tape recording of this meeting is on file in the JLBC Staff office at 1716 W. Adams.

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD CIRILLO
HERB GUENTHER
PETE RIOS
JOHN VERKAMP

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERK
CHAIRMAN 2002
CAROLYN ALLEN
KEN CHEUVRONT
LINDA GRAY
LINDA LOPEZ
RUSSELL PEARCE
CHRISTINE WEASON

MINUTES OF THE MEETING JOINT COMMITTEE ON CAPITAL REVIEW

Tuesday, January 9, 2001

The Chairman called the meeting to order at 2:05 p.m. Tuesday, January 9, 2001 in Senate Appropriations Room 109 and attendance was noted.

Members:	Senator Solomon, Chairman Senator Bowers Senator Brown Senator Cirillo Senator Guenther Senator Rios Senator Verkamp	Representative Knaperek, Vice Chairman Representative Allen Representative Cheuvront Representative Gray Representative Lopez Representative Weason
Absent:		Representative Pearce
Staff:	Richard Stavneak Lorenzo Martinez	Jan Belisle, Secretary Chris Earnest
Others:	Debbie Johnston, Senate Greg Gemson, House Maria Baier, Governor's Office Richard Hubbard, Governor's Office	Ken Travous, State Parks Renee Bahl, State Parks Jay Ziemann, State Parks

Chairman Solomon mentioned that the members present were appointed as an emergency measure and did not know if all the members would be continued on the Joint Committee on Capital Review. Senator Solomon did mention that Speaker Weiers has confirmed the House members to serve for two years on the Committee.

ARIZONA STATE PARKS - Review of Expenditure of Appropriated Monies for the Acquisition of Spur Cross Ranch.

Chris Earnest, JLBC Staff mentioned that the information from the State Parks was not received until late on January 8th and deferred to the Parks Department for a review of the issue.

Jay Ziemann, Assistant Director and Legislative Liaison with Arizona State Parks referenced the fact sheet in the submitted handout. This meeting facilitates the sale and the execution of bonds that the City of Cave Creek is acting on. The transaction needs to be settled by January 10th.

Richard Stavneak, Director, JLBC Staff said that the JCCR Committee is responsible for reviewing any land acquisition. That is the primary purpose of this meeting.

(Continued)

Jay Ziemann said that 50% (\$7.5 million) of the monies is to come from Maricopa County, 25% (\$3.75 million) from the General Fund and 25% (\$3.75 million) from the State Parks Heritage Fund. The funding is being used to purchase 70% of Spur Cross Ranch, which is owned by Great American Life Insurance Company. The Town of Cave Creek passed a bond election in September to acquire the remaining 30% which is owned by the Dreiseszun Family Trust. As the transactions go forward there are intergovernmental agreements which will require Maricopa County to operate the entire parcel as a park and preserve. There will be conservation easements, which will be held by the State Parks Board.

In response to Senator Guenther, Mr. Ziemann stated that \$21,000,000 is the purchase price for the entire property.

In answer to Representative Gray, Mr. Ziemann mentioned that the County Board of Supervisors has approved the transaction.

Mr. Richard Hubbard, Governor's Office stated that whatever buildings are on the property would become part of the state property.

In reply to Representative Gray, Mr. Ziemann said that all surveys have been completed.

Mr. Hubbard said that any remaining monies would be distributed proportionately to the General Fund, the Parks Heritage Fund and the County.

Representative Knaperek mentioned that she would like to have any extra money revert to the General Fund and asked if the recommendation was approved would the money that is left over be returned based on contributions towards the purchase. Mr. Stavneak mentioned that the Committee could give the Parks Board and the Governor's Office the guidance that the General Fund be considered the payer of last resort.

Representative Knaperek moved that the Committee give a favorable review to the expenditure of appropriated monies for the acquisition of Spur Cross Ranch with the caveat that the General Fund be the payer of last resort. The motion carried.

The meeting adjourned at 2:20 p.m.

Jan Belisle, Secretary

Lorenzo Martinez, Senior Fiscal Analyst

Senator Ruth Solomon, Chairman

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERREK
CHAIRMAN 2002
CAROLYN S. ALLEN
KEN CHEUVRON
LINDA GRAY
LINDA J. LOPEZ
RUSSELL K. PEARCE
CHRISTINE WEASON

DATE: February 1, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

FROM: Richard Stavneak, Director

SUBJECT: ADOPTION OF COMMITTEE RULES AND REGULATIONS

The Committee will consider the attached rules and regulations for adoption at its February 9th meeting. The rules and regulations are the same as the Committee used in the last biennium except for clarifying language inserted into Rule 6, Item 11. This new language states that the Committee's responsibilities include any granted by law. The current Rule 6 delineates several existing statutory responsibilities, but we wanted to clarify that this list was not exhaustive.

RS:jb

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERREK
CHAIRMAN 2002
CAROLYN S. ALLEN
KEN CHEUVRON
LINDA GRAY
LINDA J. LOPEZ
RUSSELL K. PEARCE
CHRISTINE WEASON

DATE: February 6, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Lorenzo Martinez, Senior Fiscal Analyst

SUBJECT: ADOPTION OF FY 2002 AND FY 2003 CAPITAL OUTLAY
RECOMMENDATIONS

The Committee is being asked to consider the adoption of the Capital Outlay Budget for FY 2002 and FY 2003. The attached materials include a comparison of the JLBC and Executive Capital Outlay recommendations and draft language for the Capital Outlay Bill (reflects JLBC recommendations). Detail on the Capital recommendations can be found under the Capital Outlay tab of the Proposed Budget Book for FY 2002 and FY 2003 (Pages CB1-16).

RS/LM:jb

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERREK
CHAIRMAN 2002
CAROLYN S. ALLEN
KEN CHEUVRON
LINDA GRAY
LINDA J. LOPEZ
RUSSELL K. PEARCE
CHRISTINE WEASON

DATE: February 5, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Lorenzo Martinez, Senior Fiscal Analyst

SUBJECT: ARIZONA DEPARTMENT OF ADMINISTRATION - CONSIDER APPROVAL OF
FY 2002 AND FY 2003 RENTAL RATES FOR STATE-OWNED SPACE

Request

The Arizona Department of Administration (ADOA) requests the Committee determine the FY 2002 and FY 2003 rental rates for state-owned office and storage space. Based on actions of the Lease Cost Review Board (LCRB), the Director of ADOA recommends the following FY 2002 and FY 2003 rental rates (per square foot):

<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
<u>Office</u>	<u>Storage</u>	<u>Office</u>	<u>Storage</u>	<u>Office</u>	<u>Storage</u>
\$13.50	\$4.50	\$15.00	\$5.50	\$15.50	\$6.00

The LCRB also estimates that the state's average cost for leasing privately-owned office space will be \$17.50 per square foot in FY 2002 and \$18.25 per square foot in FY 2003.

Recommendation

The JLBC Staff recommends the Committee approve the recommendations of ADOA. In comparison to the FY 2001 budget, the ADOA proposal will require an additional \$912,800 from the General Fund in FY 2002 and \$1,224,400 in FY 2003. In total, the new rates will generate approximately \$3,053,100 in additional revenue to the Capital Outlay Stabilization Fund (COSF) over the FY 2002-FY 2003 biennium and will partially fund the cost of building renewal requirements. These additional amounts have been accounted for in the JLBC recommended budget.

Analysis

Pursuant to A.R.S. § 41-792.01(D), the Committee determines the rental rate for state-owned office and storage space after considering the recommendation of the Director of ADOA. Rent paid for state-owned space is deposited in COSF. The monies in COSF are available for appropriation for utility payments on ADOA office buildings, Building Renewal, operating costs of the Building and Planning Services and Construction Services sections of the ADOA General Services Division, and specific capital projects. Agencies pay their rent from a variety of sources, including federal and other non-appropriated funds.

(Continued)

The state began charging agencies for occupying state-owned space in an attempt to hold agencies accountable for their space usage, to encourage the efficient use of space, and to generate monies to maintain state buildings. Rent is paid on buildings located on the Capitol Mall and Tucson Mall.

The recommended rates reflect the LCRB belief that the state rental rate should be 85% to 95% of private sector rates in order to encourage state building use and to allow the state to manage state-owned buildings effectively. In addition, keeping pace with private sector rates lessens the funding requirement if an agency must relocate from state space to private space (given that state space is effectively 100% occupied). The recommended office rates are approximately 85% of the estimated rates for private space in both FY 2002 and FY 2003. The \$1.50 per square foot increase from FY 2001 to FY 2003 for office space reflects an 11% increase. The \$0.50 per square foot increase from FY 2002 to FY 2003 for office space reflects a 3% increase.

The budgets for individual agencies in state-owned space have not been adjusted to reflect the new rental rates. The JLBC budget recommendation would appropriate the additional requirements as a lump sum in the General Appropriation Act with allocations to individual agencies and from individual funds to be determined by JLBC Staff at a later time. The following table lists the estimated impact of the increases associated with the new rates.

	<u>General Fund</u>	<u>Other Appropriated Funds</u>	<u>Non-Appropriated Funds</u>	<u>Total</u>
FY 2002 Increase (from FY 2001)	\$ 912,800	\$260,800	\$130,400	\$1,304,000
FY 2003 Increase (from FY 2001)	<u>\$1,224,400</u>	<u>\$349,800</u>	<u>\$174,900</u>	<u>\$1,749,100</u>
Total Biennial Requirement	\$ 2,137,200	\$ 610,600	\$305,300	\$3,053,100

The increased rates will generate approximately \$915,900 from non-General Fund sources over the FY 2002-FY 2003 biennium, and require an additional \$2,137,200 from the General Fund over the same time period. The additional requirements are based on FY 2001 rent-eligible space projections of 827,604 square feet of office space and 62,584 square feet of storage space.

RS/LM:jb

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERK
CHAIRMAN 2002
CAROLYN S. ALLEN
KEN CHEUVRON
LINDA GRAY
LINDA J. LOPEZ
RUSSELL K. PEARCE
CHRISTINE WEASON

DATE: February 6, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Indya Kincannon, Fiscal Analyst

SUBJECT: ARIZONA DEPARTMENT OF VETERANS' SERVICES/ARIZONA DEPARTMENT
OF ADMINISTRATION – REVIEW OF SCOPE, PURPOSE AND ESTIMATED
COST OF VETERANS' CEMETERY PROJECT

Request

The Arizona Department of Veterans' Services requests Committee review of the scope, purpose and estimated cost of the Southern Arizona Veterans' Cemetery project.

Recommendation

The JLBC Staff recommends that the Committee give a favorable review of the request.

Analysis

The U.S. Department of Veterans Affairs has a program that provides grants to states for the establishment of state veteran cemeteries. The grant will pay up to 100% of the construction costs associated with building such a cemetery. However, in order to qualify for a grant, an applicant must incur certain preconstruction costs. Once the grant is awarded, these preconstruction costs are reimbursable via the grant program. The only preconstruction costs that are not 100% reimbursable by the federal grant program are the costs of acquiring and clearing title to the land, which are estimated to be less than \$50,000 for this project.

Laws 1999, Chapter 133 appropriated \$500,000 from the General Fund to pay for the initial costs of architect engineering, title work and land transfer involved with the establishment of a veterans' cemetery in Southern Arizona. The appropriated amount was based on an estimate of the preconstruction costs. Later the department revised its estimated preconstruction costs to \$752,300. Laws 2000, Chapter 180 appropriated an additional \$252,300 from the Veterans' Home Contingency Special Line Item to cover the increased costs.

(Continued)

The department has completed the bulk of the work required for submitting the grant application and has spent most of the \$752,300 appropriated for the project. Construction may commence as soon as April 2001, although there have been some delays in clearing title to the land. The following table lists the estimated costs of the various project components by funding source.

	<u>State</u>	<u>Federal</u>	<u>All Funds</u>
Land Acquisition Costs	\$ 10,000	\$ 0	\$ 10,000
A/E Fees, Schematics, Construction Documents, etc.	687,000	202,000	889,000
Construction Services	0	5,019,100	5,019,100
Environmental Assessments, Property Surveys, etc.	40,500	0	40,500
Project Support	4,300	291,200	295,500
Contingency Allowance	<u>10,500</u>	<u>668,100</u>	<u>678,600</u>
TOTAL	\$752,300	\$6,180,400	\$6,932,700

Upon award of the federal grant, approximately \$450,000 will be reimbursed to the General Fund and \$252,300 will be reimbursed to the Veterans' Home Contingency Special Line Item. Upon completion of cemetery construction the state will assume full responsibility for operating the cemetery. The JLBC estimates that operating the cemetery will cost \$342,000 per year. These costs have been recommended in the JLBC budget for FY 2002 and FY 2003.

RS/IK:jb

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF
REPRESENTATIVES

LAURA KNAPERK
CHAIRMAN 2002
CAROLYN S. ALLEN
KEN CHEUVRON
LINDA GRAY
LINDA J. LOPEZ
RUSSELL K. PEARCE
CHRISTINE WEASON

DATE: February 5, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Patrick Fearon, Senior Fiscal Analyst

SUBJECT: SCHOOL FACILITIES BOARD - REPORT ON ATTORNEY GENERAL OPINION
ON BUILDING RENEWAL REQUESTS TO THE TREASURER

Request

In response to the Committee's request, the Attorney General has provided the attached opinion regarding the board's instructions to the State Treasurer to transfer sales tax revenues to the Building Renewal Fund.

Recommendation

This item is for information only and no Committee action is required. The opinion says the board is neither required nor permitted to instruct the Treasurer to transfer additional revenues to the fund to make up the difference between the board's initial instruction and any subsequent increase in the estimated formula cost for building renewal.

Analysis

The Building Renewal Fund is established by A.R.S. § 15-2031 in order to provide funding for school districts to maintain the adequacy of existing school facilities. Building renewal monies are for major renovations and repairs, systems upgrades to extend the life of a building, and infrastructure costs on academic buildings owned by a district. The amount allocated to each school district is determined by a statutory formula. The primary components of the formula are building age (which is adjusted for significant renovations and upgrades) and building capacity value (which takes into account the building's student capacity, square footage, and square footage costs prescribed by statute).

A.R.S. § 15-2002 requires the board to instruct the State Treasurer by January 1 of each year as to the amount of Transaction Privilege Tax (TPT) revenues to be credited in the following fiscal year to the New School Facilities Fund, the Deficiencies Correction Fund, and the Building Renewal Fund. These transferred revenues are not subject to legislative appropriation.

(Continued)

Prior Year Shortfalls. During the past two fiscal years, the board's distributions to school districts for building renewal were cumulatively \$55.3 million less than the building renewal formula would have required for "full funding." In FY 1999, the board distributed \$75,000,000 for building renewal, equaling the amount appropriated for building renewal for that year in Students FIRSTC but that amount was \$28,700,000 less than required by the formula. Accordingly, the board reduced each school district's allocation to approximately 72% of its full formula amount. In FY 2000, the board distributed all \$82,500,000 available in the Building Renewal Fund, but that amount was \$26,600,000 less than required by the formula (for a total cumulative 2-year shortfall of \$55,300,000). The board therefore reduced each district's FY 2000 allocation under the formula to approximately 76% of its full formula amount.

In response to a lawsuit that would require payment of these shortfalls, a Maricopa County Superior Court ruled in October that the board could legally reduce the FY 1999 allocations because the amount available for distribution in that year was governed by a specific appropriation to the Building Renewal Fund. Regarding FY 2000 and subsequent years, the Court ruled that allocations under the Building Renewal Fund should be governed by the statutory formula, rather than by the amount in the fund. However, the court said that this does not necessarily mean that the FY 2000 shortfall was a violation of the state constitution's guarantee of a general and uniform school financing system. The Court ruled that evidence would have to be presented about the impact of the shortfall before such a finding could be made. The final outcome of the lawsuit regarding this issue is still pending.

Shortfall in FY 2001. For FY 2001, the board originally estimated the building renewal formula amount to be \$116.8 million but instructed the Treasurer in January 2000 to credit \$120,000,000 to the Building Renewal Fund to have a cushion for unexpected changes. Since then, the formula amount has been recalculated to require \$122,700,000 in FY 2001. Although the October court decision said that funding for the Building Renewal Fund should cover the entire formula cost, it did not address how to make up the shortfall when the initial transfer instruction to the Treasurer falls short of the formula cost. The Committee therefore asked the Attorney General for a formal opinion on the following questions:

- Is the board required to instruct the Treasurer to make a \$2.7 million supplemental transfer from TPT revenues to the Building Renewal Fund in FY 2001 to fully fund the formula cost?
- If the board is not required to instruct the Treasurer to make a supplemental transfer, is it permitted to do so?

The Attorney General says the board is **not required** to make a supplemental transfer instruction to the Treasurer. Relying on a strict construction of A.R.S. § 15-2002(A)(10), the opinion says there is nothing in the statute that requires the board to make a transfer instruction after January 1 of each year. Once the transfer instruction has been made, the funding for the Building Renewal Fund is permanently set. Otherwise, according to the opinion, the appropriate amount of funding for the Building Renewal Fund would constantly change as the board received updated information.

The Attorney General also says the board is **not permitted** to make a supplemental transfer instruction to the Treasurer. According to the opinion, A.R.S. § 15-2002(A)(10) is plain and unambiguous in saying that the board shall make its transfer instruction to the Treasurer "No later than January 1 of each year" There is therefore no authority for the board to make a supplemental instruction. The opinion says that revising the funding for the Building Renewal Fund for FY 2001 would require legislative action to either give the board authority to make supplemental instructions or to simply provide the required supplemental amount through a direct legislative appropriation.

Consistent with the January 2001 opinion, the board has requested a supplemental appropriation for FY 2001 amounting to \$2,725,300 to cover the shortfall in building renewal funding. This supplemental amount has been included in the JLBC recommended budget.